IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1054 of 1999

Between:

1 .Namburi Chinna Sathi RAju

2. Namburi Venkata Shiva Murhy Raju

3. Namburi Ramakrishna Raju

..... PETITIONER(S)

AND

1 District Collector E.G Dist
2 Land Acquisition Officer & RDO Eluru ,
W.G dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the possession of the land survey No.223/2 situated at Pippara Village, Ganapavaram Mandal , W.G Dist is highly illegal , arbitrary and contrary to the Land Acquisition Act, and consequently direct the respondents not to interfere with the physical actual possession of the petitioners and not to trake over the possession of the land admeasuring 44 cents in Land Survey No.223/2 situated at Pippara Village , W.G dist, and pass.

For the Petitioners:MRVENKATARAGHU RAMULU, Advocate

For the Respondents.: GP FOR SOCIAL WELFARE

The Court Made the Following ORDER:

This Writ Petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in acquiring the land in Sy.No. 223/2, ad-measuring

Ac.0.44cents, situated in Pippara village, Ganapavaram Mandal of West Godavari District as illegal and arbitrary.

It is the case of the petitioners that they are in possession of Ac.0.44 cents of land, situated in Sy. 223/2 of Pippara village and cultivating the said land by paying 15 bags per acre as Makta to Grama Chanda Satram, Pippara village, Ganapavaram Mandal, West Godavari District. Though the petitioners have not questioned notification issued under the provisions of the Land Acquisition Act, 1894, they are seeking relief in the declaratory manner, directing the respondents not to interfere with their peaceful possession of the land in question. It is the case of the petitioners that having regard to the nature of public purpose, there is no urgency to acquire the land in question by dispensing enquiry under Section 5-A of the Land Acquisition Act, 1894. It is the further case of the petitioners that other vacant porambok lands are available in the village for the purpose of house sites and in spite of the same, the respondents have chosen to acquire the land in question at the instance of some persons in the village. It is their further case that notification as required under Section 4(1) of the Land Acquisition Act, 1894 is not published in the news papers.

In the counter affidavit filed on behalf of the respondents, it is stated that certain encroachments were removed from the road margins in Pippara village limits and in order to provide alternative house sites to the said encroachers, land covered by Sy.Nos. 223/1B, 223/2 and 223/3 of Pippara village, belonging to Bairagimattam Devastanam is proposed for acquisition, and, notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the District Gazettee on 9-12-1998 and 16-12-1998 respectively and in the News papers on 12-12-1998 and 22-12-1998. Further it is stated that the land in question was acquired after conducting enquiry with regard to suitability for house sites. It is the case of the respondents that no government land is available in the Pippara village to provide house sites and the acquisition of the land in question is following the procedure envisaged under the provisions of the Land Acquisition Act, 1894.

Having regard to the above submissions, it is to be seen, it is not for the petitioners to contend that there is no urgency to dispense with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is stated in the counter affidavit filed on behalf of the respondents that for rehabilitation of certain persons, who were evicted from the encroachments, land in question was acquired by invoking urgency clause, dispensing with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is for the respondent authorities to come to the conclusion for invoking the urgency clause. In view of the stand of the respondents in the counter affidavit, it cannot be said that there is no such urgency to dispense with the enquiry under Section 5-A of the Act. Further, with regard to availability of other lands, it is stated in the counter affidavit that no government lands are available in the Pippara village and after conducting enquiry, the land in question was selected for acquisition to provide house sites. Even with regard to the plea of the petitioners for non publication of notification as required under law, it is clearly stated that notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the news papers on 12-12-1998 and 22-12-1998 respectively. In that view of the matter, I do not see any flaw in the acquisition proceedings to interfere with the matter.

The Writ Petition is devoid of merits and is accordingly dismissed. No costs.

ASST. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, West Godavari District.

2**.** The Land Acquisition Offocer& Revenue Divisional Officer, Eluru, W.G.District.

3.2CCs to G.P. for Social Welfare, High Court Buildings, AP Hyderabad (OUT)

4.2CD copies

Msnr.

*Form-NIC-OGS/WP{**SJ**}*

THE HONOURABLE SRI JUSTICE

R. SUBHASH REDDY

WRIT PETITION NO. 1054 OF 1999.

ORDER:

This Writ Petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in acquiring the land in Sy.No. 223/2, ad-measuring Ac.0.44cents, situated in Pippara village, Ganapavaram Mandal of West Godavari District as illegal and arbitrary.

It is the case of the petitioners that they are in possession of Ac.0.44 cents of land, situated in Sy. 223/2 of Pippara village and cultivating the said land by paying 15 bags per acre as Makta to Grama Chanda Satram, Pippara village, Ganapavaram Mandal, West Godavari District. Though the petitioners have not questioned notification issued under the provisions of the Land Acquisition Act, 1894, they are seeking relief in the declaratory manner, directing the respondents not to interfere with their peaceful possession of the land in question. It is the case of the petitioners that having regard to the nature of

public purpose, there is no urgency to acquire the land in question by dispensing enquiry under Section 5-A of the Land Acquisition Act, 1894. It is the further case of the petitioners that other vacant porambok lands are available in the village for the purpose of house sites and in spite of the same, the respondents have chosen to acquire the land in question at the instance of some persons in the village. It is their further case that notification as required under Section 4(1) of the Land Acquisition Act, 1894 is not published in the news papers.

In the counter affidavit filed on behalf of the respondents, it is stated that certain encroachments were removed from the road margins in Pippara village limits and in order to provide alternative house sites to the said encroachers, land covered by Sy.Nos. 223/1B, 223/2 and 223/3 of Pippara village, belonging to Bairagimattam Devastanam is proposed for acquisition, and, notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the District Gazettee on 9-12-1998 and 16-12-1998 respectively and in the News papers on 12-12-1998 and 22-12-1998. Further it is stated that the land in question was acquired after conducting enquiry with regard to suitability for house sites. It is the case of the respondents that no government land is available in the Pippara village to provide house sites and the acquisition of the land in question is following the procedure envisaged under the provisions of the Land Acquisition Act, 1894.

Having regard to the above submissions, it is to be seen, it is not for the petitioners to contend that there is no urgency to dispense with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is stated in the counter affidavit filed on behalf of the respondents that for rehabilitation of certain persons, who were evicted from the encroachments, land in question was acquired by invoking urgency clause, dispensing with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is for the respondent authorities to come to the conclusion for invoking the urgency clause. In view of the stand of the respondents in the counter affidavit, it cannot be said that there is no such urgency to dispense with the enquiry under Section 5-A of the Act. Further, with regard to availability of other lands, it is stated in the counter affidavit that no

government lands are available in the Pippara village and after conducting enquiry, the land in question was selected for acquisition to provide house sites. Even with regard to the plea of the petitioners for non publication of notification as required under law, it is clearly stated that notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the news papers on 12-12-1998 and 22-12-1998 respectively. In that view of the matter, I do not see any flaw in the acquisition proceedings to interfere with the matter.

The Writ Petition is devoid of merits and is accordingly dismissed. No costs.

JUSTICE R. SUBHASH REDDY.

DATE: 21-06-2004.

Msnr.